

RONALD REAGAN, GOVERNOR, STATE OF CALIFORNIA  
ANTHONY R. PIERNO, COMMISSIONER OF CORPORATIONS

Release No. 10-C

BROKER-DEALERS, INVESTMENT ADVISERS AND ISSUERS:  
DEPOSITS OF CASH OR SECURITIES IN LIEU OF BOND

The Corporate Securities Law of 1968, in Section 25216(e), allows the Commissioner to accept from broker-dealers, investment advisers, and issuers (hereinafter called "applicants") any appropriate deposit of cash or securities in lieu of a surety bond, when such bond is required pursuant to Rule 260.216.15 or Rule 260.237.1. Appropriate deposits of cash or securities will include certificates of deposit or other appropriate evidence of deposit in accounts with banks or in certificates or share accounts with savings and loan associations. Securities which have a fluctuating market value will not be deemed appropriate within the meaning of Section 25216(e).

The following sets forth the procedure to be followed by an applicant who desires to deposit cash or securities in lieu of bond in accordance with Section 25216(e).

1. (a) The applicant forwards the certificates of deposit, or other appropriate evidence of deposit of bank accounts or savings and loan share accounts to a bank of its choice in the City of Sacramento, with the request that the same be held subject to written instructions of the Commissioner of Corporations or State Treasurer.

(b) Concurrently, the applicant files with the Commissioner six copies of Assignment Form FM 517 (obtainable at any office of the Department) completed as to Part I and Part II, together with two copies of the instruction letter to the Sacramento bank. If the applicant is a corporation, it should also file two copies of the resolution of its board of directors authorizing the filing of the Assignment.

(c) Upon acceptance of the deposit, the Commissioner completes Part III of Form FM 517. One copy of the completed form will be returned to the applicant and one copy will be forwarded to the bank or savings and loan association where the funds are deposited.

2. The Commissioner is not given authority under the law to adjudicate any claim or controversy against the bond or deposit in lieu of bond furnished pursuant to Section 25216(e). Disputed claims must be adjudicated by a court of competent jurisdiction. Upon the filing of suit and notice thereof to the Commissioner, the Commissioner, if he deems it appropriate, will turn over all or part of the deposit to the court by means of an interpleader or similar proceeding.

3. Cash, certificates of deposit, bank accounts and savings and loan association share accounts deposited in lieu of bond may be returned to the applicant two years after the termination by the applicant of the deposit arrangement. That arrangement may be terminated by the applicant, if he is a broker-dealer or investment adviser, upon termination of the license or so long as the license remains in effect, upon filing of a surety bond in compliance with Rule 260.216.15 or Rule 260.237.1, and if the applicant is an issuer, upon the last sale pursuant to the qualification, and in either event only upon a showing by the applicant satisfactory to the Commissioner that it has no outstanding liabilities or claims against it which, if valid, could be satisfied in whole or in part out of the deposit.

4. An applicant with a bond on file with the Commissioner may provide for the cancellation of such bond as of the date of approval of the deposit by the Commissioner, as provided above in paragraph 1(c) by filing notice of cancellation in accordance with the terms of the bond at least 30 days in advance of such approval by the Commissioner and contingent upon such approval.

DATED: March 14, 1969

By order of  
ANTHONY R. PIERNO  
Commissioner of Corporations

HANS A. MATTES  
Assistant Commissioner  
Office of Policy